

## **AMBALAT ISSUES: A PRELIMINARY STUDY ON THE PROBLEM OF INDONESIA TERRITORIAL BOUNDARIES**

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### **ABSTRACT**

*Territory is a term to indicate an area over which right of ownership is governed exercised and which can be delimited or bounded in some way. The ownership of territory is formal and may be legally enforced. Each territory itself may be divided into a number of divisions based on two main reasons. First, it is based on empirical justification and second, it is derived by its conflict characteristic. The filtering role of boundaries and the calculus of conflict may also be used to understand the others meaning of territorial division. Ambalat issues is an urgently Indonesia territorial conflicts over sea-waters boundaries. Theoritically, Indonesia has the source of conflicts over its territorial boundary of tens neighbours countries respectively. This study attempt to observe concisely the Ambalat disputes areas over Indonesia territorial boundaries related to national sovereignty and the property rights of exploring and exploiting the mineral resources over the Exclusive Economic Zones and the Contiguous Zones.*

**Keyword:** territorial boundary, spatial conflict, sovereignty right, geopolitic

### **INTRODUCTION**

The International Court and Justice on December 17, 2002, issued that the ownership of Ligitan and Sipadan islands is under Malaysian territory jurisdiction. As a consequence, that decision may influence Indonesian maritime boundary around the Ligitan and Sipadan islands. While based on the Indonesia Exclusive Economic Zone (EEZ) those Ambalat areas suppose to be under the Indonesia territory. Diplomacy efforts have been carried out by the Government of Indonesia (GoI) in order to solve this territorial problem rather than military approach. Indeed, a careful and accurate knowledge on this conflicting matter is needed in every negotiation session. Basic question such as why Ambalat area which so important for Indonesia and Malaysia should be considered and therefore any available and relevance data, information and knowledge should be analyzed for

preparing strong argumentation. In general, there are two basic reason why Ambalat area is so important, first, related to national sovereignty and second, the existing of strategic natural resources mainly natural gas and oils in the areas.

There is no doubt that each country will pay at any cost to protect their national sovereignty. It is declared by the United Nation that every country has their own right of sovereignty. Unfortunately, many conflicts due to national territory issues which reflect sovereignty are remaining occurred in many part of the world. Afterward, those conflicting issues may come to a conclusion that line of boundary to delineate territory of a nation has become a sensitive issue for any neighboring countries, or even a country which been invaded by other country or group. Haggett [2001] has argue a hypothetical model of sources on conflict of territorial as follows :

1. Landlocked State and Corridors;
2. Conflict over National Boundaries i.e.:
  - a. using watershed to define the border lines of territorial division;
  - b. meandering river with changing international boundary;
  - c. median line through inland lake;
  - d. upstream abstraction of waters;
3. Conflict over minority groups:
  - a. a linguistic minority group lying along its borders;
  - b. a distinct ethnic group posed halfway between neighbors;
  - c. seasonal movement of pastoral people across border;
  - d. distinct minorities within a state as an internal separatist movement;
4. Others source of conflict:
  - a. internationally significance resources (i.e. uranium and chrome);
  - b. claim based on threat to centre for significance resource locations;
  - c. artificial seeding of clouds by modified weather technology.

In Indonesia, the Ambalat is one of territorial issues over national boundary. It was quite sensitive when both military arms (Indonesia and Malaysia) has taken their position ready for military action (i.e. Karang Unarang lighthouse building). The conflict itself was clearly demonstrated basically due to unclear and not confirm on line of national boundary. Instead of Ambalat case, Indonesia is also facing similar cases with the other neighbor countries, especially in nine most remote island along the Indonesia boundary corridors, such as the Singapore dealing with Nipah island, the Philipines dealing with Miangas island, and Batek island where its people willing to have their own state. There are a number of countries remain dealing with this territorial problems, for instance Japan and Korea in Dokdo island, ten countries for Spratley island in South China Sea.

### Territorial Status of Water-Covered Areas

From geographical point of views and territorial right, ocean is divided into three zones [Haggett, 2001]:

- a. a right over the immediate offshore area around country;
- b. claims for mineral rights in the continental shelf around a country;
- c. ocean floors themselves.

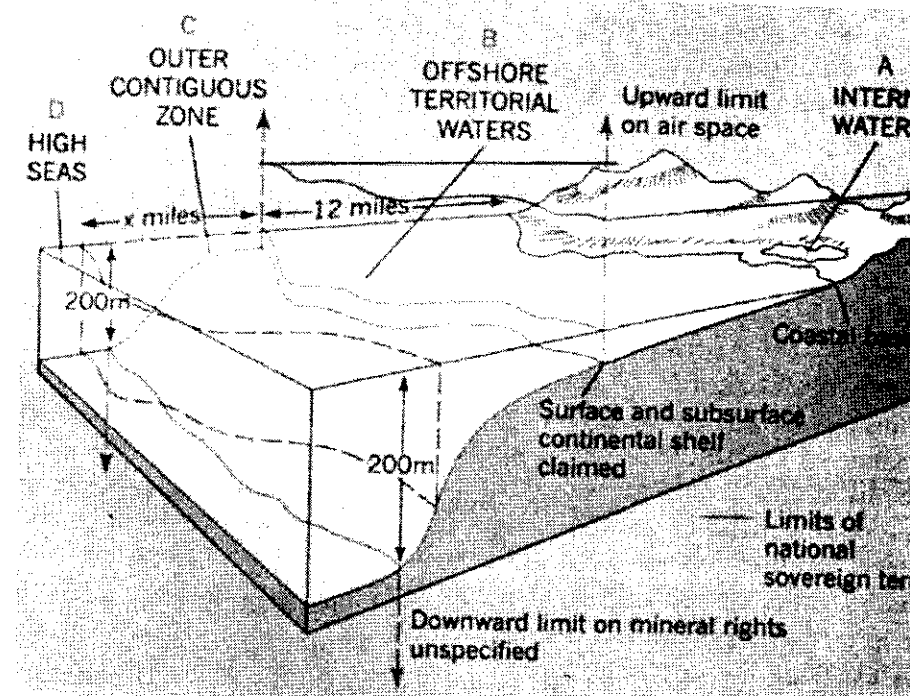


Figure 1. Schematic Territorial division over sea water areas [Haggett, 2001]

While based on sea water areas it can be divided into four territories (see Fig. 1):

- a. internal water,
- b. offshore territorial water,
- c. the outer contiguous zones,
- d. high sea level.

In 1982 the United Nation held the Conference on Law Of the Sea (UNCLOS) it was declared which issued that Indonesia is the largest archipelagic states in the world. Moreover, the conference also stated that a deep understanding toward territorial concept should be defined between continental state and archipelagic state. As an archipelagic state, Indonesia put this statement as an important note to define its territory. Eventough a reference has been made by the UN, as mentioned above, a dispute decision still remain happen on the Ambalat territorial problem between the Government of Indonesia and Malaysia (see Fig. 2).

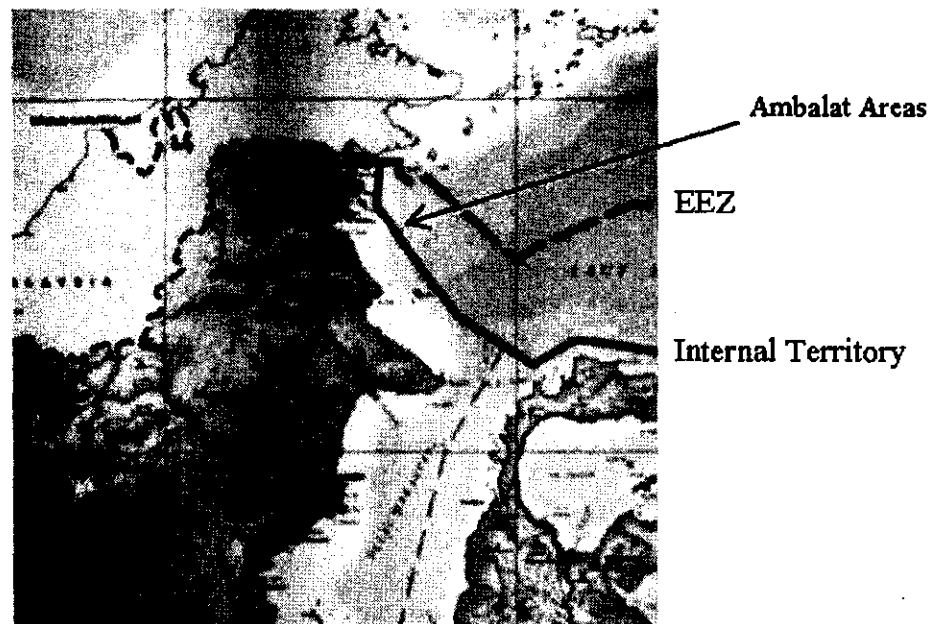


Figure 2. The Indonesian Territorial Boundaries Over the Ambalat Areas [BAKOSURTANAL, 2004]

The Government of Malaysia has delineated a new line of boundary based on their own understanding. And Indonesia government has also done the something has their own. Consequently, there are two lines concept of boundaries lies on the same area (the Ambalat area). Fig 2 shows that the grey area is the conflicting area which claimed by the Indonesia's government as a part of Indonesia territory. Based on this understanding, the Indonesia government has issued a joint activity agreement with a multinational company on mining oil and gas which located in Ambalat area. The area itself is divided into several blocks, i.e. Blok ND6, ND7, Blok Nunukan, Bukat and Blok Ambalat itself (see Fig. 3).

## RESULTS AND DISCUSSION

This preliminary study is aiming to describe the Ambalat problem concisely by using a limited data and spatial information for obtaining geographical explanation. Through this geographical perspective, the study might come to a conclusion that can be used for basic consideration in solving the territorial problem.

Indonesia is the world largest archipelagic country which cover 8 million square kilometer and consist of 17,504 islands or about 30% of total Indonesia's area with 81,290 km of coastal length [Utomo, 2004]. Ambalat area is located in north-east part of Kalimantan (Borneo) island and lies in Sulawesi Sea which has

over than 5,000 meter depth. Samarinda is the closest capital city in Kalimantan which 800 km distance from Ambalat and 100 km from Sebatik. Based on geological structure, Ambalat area lies on at the edge of continent zone (named as Sunda shelf) which has a potential natural resources deposits in its sea bed, such as oil and gas [Sandy, 1996]. In term of transportation purposes, Sulawesi Sea has been established by the GoI as an international shipping corridor connecting the Pacific Oceans (northern part of Indonesia) and the Indian Ocean (southern part of Indonesia). On the other side of Kalimantan Island, a commercial international shipping lies on Natuna Sea connecting Eastern part of Australia, South-east Asia, and also connecting west and east part (Sarawak) of Malaysia territory.

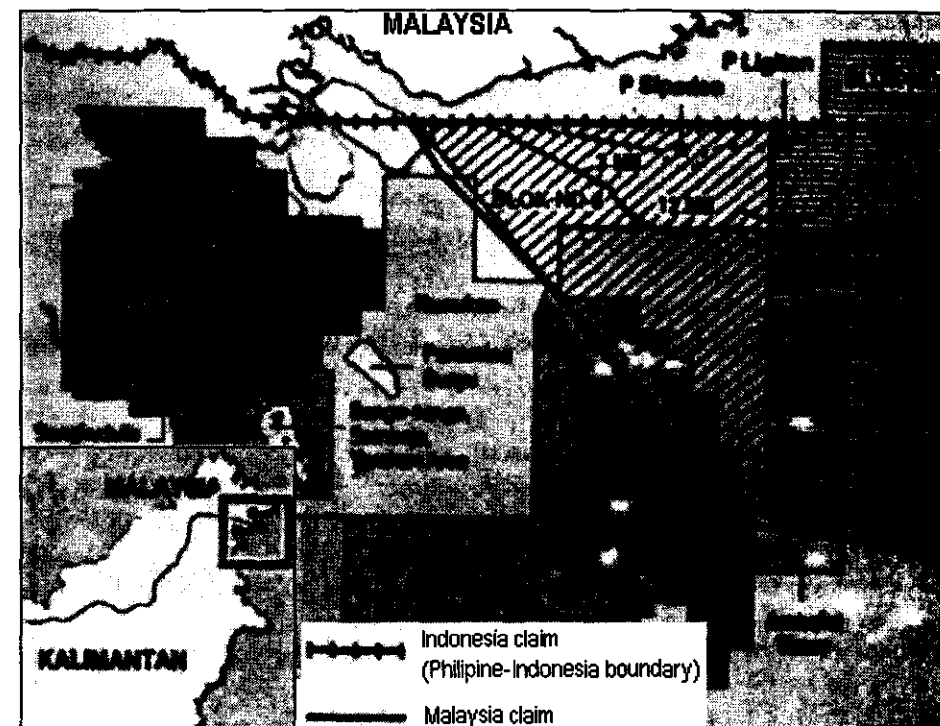
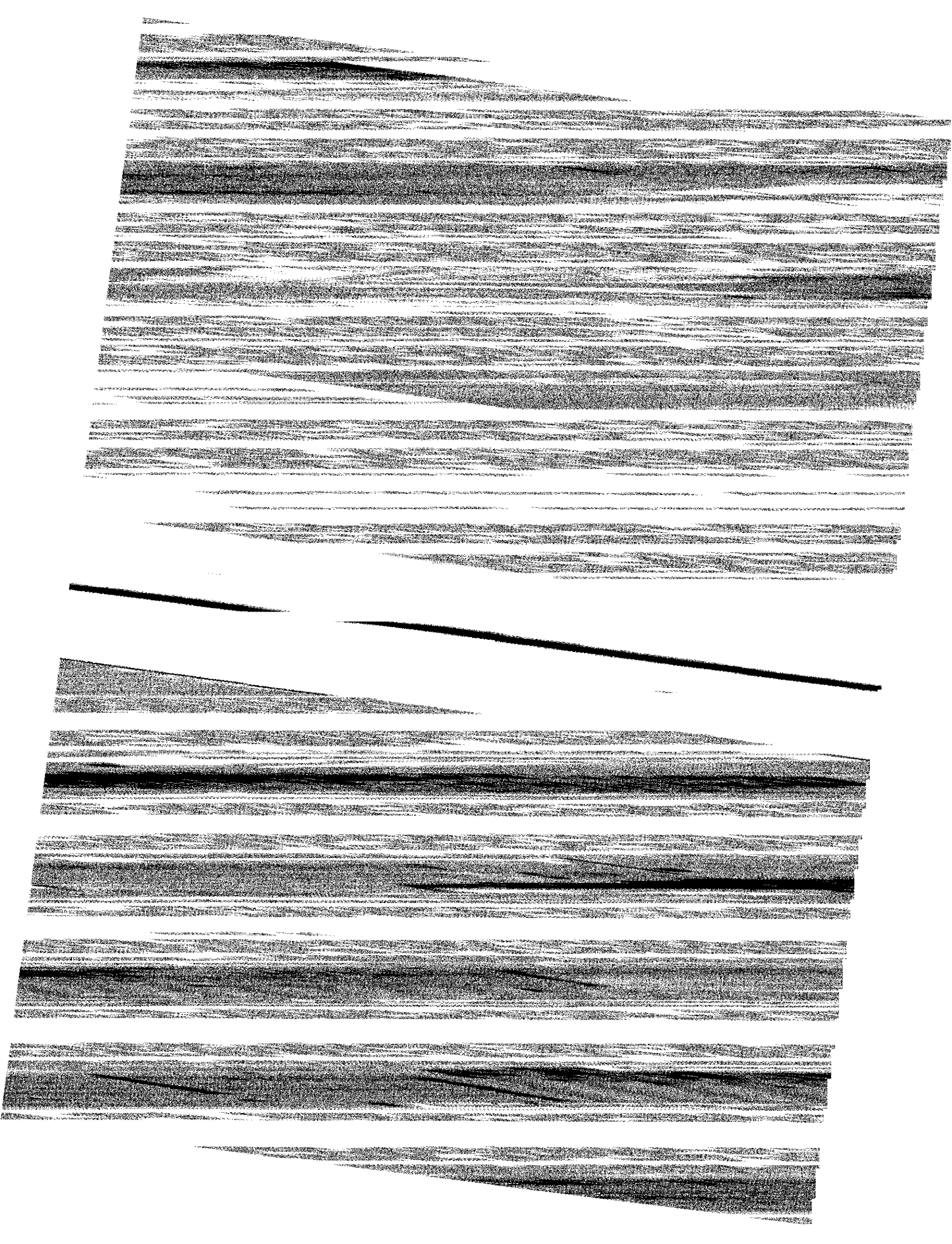


Figure 3. The Disputes Territorial Boundary around Ambalat areas [Harmati, 2005]

By May 2009, the Government of Indonesia has to submit its claim on the outer limits of the continental shelf to Commission on the Limits of the Continental Shelf (CLCS) based on its geographical character of continental shelf as an archipelagic state. As a crucial and sensitive issue, this should be a priority for the GoI. There are five identified critical issues should be dealt with Ambalat to conclude the line of territorial boundaries and especially for the line of the Exclusive Economic Zone boundaries.



According to Churchill and Lowe [1992], the definitions of the Archipelagic State is a group of islands including part of island, interconnecting waters and natural features which closely interrelated to islands, sea water and other natural features from based on intrinsic geographical, economical and political, or even historically aspect. Therefore, as mentioned above, Ambalat problems should be determined by those aspects which may be more complicated. Related to this problems, actually the GoI has prepared a number of legal documents as main reference, i.e:

1. UU no 17, 1985 is the Ratified International Law of the Sea (UNCLOS);
2. UU no 6, 1996 is the Following Ratification of UNCLOS 1982;
3. UU no 24, 1992 is the Spatial Planning /Arrangement;
4. UU no 23, 1997 is the Environmental Consideration of Development;
5. UU no 32, 2004 is the Local Government Regularity;
6. PP no 37, 2002 is the Corridor Rights of Shipping transportation over internal sea waters;
7. PP no 38, 2002 is the List of Geographical Coordinates of Indonesian territorial boundary.

Above list of legal documents shows that the GoI is considering seriously on territorial matters, whether economic, social-political purposes or ecological purposes in maritime areas. According to the International Law of Maritime Boundary [Djalal in Utomo, 2004] mentioned that an existing part of country or regions may be change based on basic principles such as Accretion, Cession, Sucession, Subjugation or Conquest, Discovery, Prescription and Changing in International Law.

Among those basic principles, prescription principles is the most important in order to be used for strengthening argumentation on property right of exploration and exploitation in Ambalat areas. In fact, this conflicting area has been claimed by the GoI long time before Malaysia and Philipines claimed it. In addition, this prescription principles also used by International Court and Justice on deciding the Ligitan and Sipadan island territorial ownerships.

## CONCLUSIONS

The Ambalat territorial problems arise firstly when Malaysia claimed Ligitan and Sipadan islands under their jurisdiction based on the International Court and Justice declaration in 2002. As a consequence the line of territorial boundaries of Indonesia was changing. By the arguing the EEZ concept, the GoI was countered argue on the right to have the Ambalat ownership back to Indonesia. The argumentation was focusing on three main issues: 1) continous presence, 2) effective occupation, and 3) maintaining ecological preservation, instead of prescription principle objectives. The GoI has prepared and compiled comprehensive data and information, either tabular and spatial dimension. Those data and information including geological structures, hydro-oceanography, coastal

geomorphology, and the cultural landscape. And, it should be supported possible technical matters in delimitating outer limits of continental shelf.

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